ALASKA DEPARTMENT OF NATURAL RESOURCES – COMMISSIONER'S ADDENDUM
To the DIVISION OF MINING, LAND AND WATER'S
JULY 5, 2013 FINAL FINDING AND DECISION
For a COMPETITIVE COAL LEASE SALE in the CANYON CREEK AREA, ALASKA
ADL 553937

The following material is incorporated in the above captioned decision as a result of a decision by the Commissioner upon appeal.

It is included to provide further explanation and clarity of the decision to the public, and to supplement the technical information required to be considered in the above captioned decision.

On pg. 12 at the end of existing text the following text shall be considered inserted:

"This Decision, on pages 11, 19, 47, 109, 132-133, 135, 141-142, 151-152, 154 and 176, in other areas, and by implication in other areas, could be misinterpreted to read that the Division did not consider development to be a reasonably foreseeable effect of a lease disposal, or that foreseeable development was not evaluated in the this Decision because future permitting decisions could not be predicted by the Division. These impressions are incorrect, and are not reflected in the substance of the Division's analysis.

The Division thoroughly considered the impact of coal exploration, development, and production in the course of making this best interest finding. It could not, and was not required by law to predict the exact form of this development, but it was required by law to consider the kinds of impacts that development on the scale foreseen in the Canyon Creek area (a fully operational coal mine) would have on the existing values of the area.

In fact, it avoided making specific predictions to avoid the appearance of making pre-decisional approvals of any specific course of action or development. However, any statement that the Division cannot predict the details of future development should be read in the context of the Division's thorough consideration of the impacts of development generally, which fulfill the requirements of AS 38.05.035(e) and 11 AAC 85.200."

On pg. 137, prior to the heading "Regional and Local Fiscal Effects" the following text shall be considered inserted:

"Any increase in coal mining activity or development under a lease in the Canyon Creek area would result in an increase in regulatory oversight activity, in the ASCMCRA program as well as other state agencies. These increases require incremental increases in administrative expense, which must be evaluated in this Decision. This analysis draws on publicly available information and extrapolation from other material contained in this Decision.

Administrative expense is focused on State budgets – direct state revenues and direct state expenditures. Revenues associated with a lease in the Canyon Creek area are known – per regulation, they will be at least $3 an acre.[53] Given the size of approximately 13,160 acres, the lease alone could generate approximately $39,480 a year in state revenue. Expenditures are less distinctly quantifiable, but would be expected to be minimal, proportional to that income, and largely consistent with current ASCMCRA program activities.

The ASCMCRA program's existing annual budget is approximately $700,000. ASCMCRA is implemented in cooperation with the federal SMCRA program under the Office of Surface Mining (OSM), and approximately 50% of this amount is financed by the federal government.[54] The income that would be derived from the lease (while not directly allocated to the program's budget) represents roughly 6% of this total, or 12% of the State's portion of the funding.

The administrative expense associated with maintaining a lease and permitting and inspecting exploration on a lease is not known precisely, but would not be expected to even reach 6% of the current budget levels. The primary driver of this cost would be flights to inspect the site. This is already a very common activity for regulators given Alaska's size, geography and infrastructure and would require only schedule adjustments and minor travel budget changes.[55]

The current ASCMCRA budget consists largely of personnel expense but the presence of a new lease would not necessitate employing any additional staff. The impacts to other sections and Divisions of DNR, and other state agencies would also be in line with existing work processes and levels. The presence of a lease will foreseeably create administrative

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[53] *See* 11 AAC 85.235(a).

[54] The ASCMCRA program is funded by OSM grants and required matching state contributions. For federal FY 2013 (July 2013 to June 2014) the OSM grant to Alaska was approximately $348,000. With the required state match, the total program budget is approximately $696,000. *See* http://www.osmre.gov/resources/grants/docs/RegGrantDist14.pdf.

[55] For example, even two flights per month, at $500.00 per flight, would only create $12,000 of expense. Even operational coal mines do not require inspections by DNR regulators with this frequency.

work proportional to the anticipated rental income and could be managed through existing processes.

The administrative costs associated with development on the lease must also be evaluated. Were the lease to be developed into an operating coal mine it is clear there would be a substantial increase in administrative cost, but also an increase in state revenue. It is conceivable this would even require hiring additional full-time coal program staff. However, conservative production estimates demonstrate that the state-royalty revenue associated with such a mine would dwarf any administrative expense.

A production rate of only one million short tons of coal a year (an economically feasible project in the area may be an entire order of magnitude higher), sold at Powder River Basin domestic spot prices of approximately $12.50 per ton[56] (the coal quality and possible market prices for Canyon Creek area coal could be significantly higher) would result in $12.5 million in annual revenue for the mine operator. Applying the minimum royalty rate for competitive coal leases of 5%,[57] this would result in $625,000 in State royalty revenues each year, nearly equal to the current ASCMCRA program's entire budget.[58] This shows a clear balance in favor of the sale and ultimately development of a lease from an administrative cost perspective.

These administrative cost evaluations are within the proper scope of the FFD under 11 AAC 85.200(b)(7). This analysis confirms that direct state revenues from the potential lease would very likely far exceed the administrative costs associated with the necessary incremental expansion of the ASCMCRA program and the routine operations of other regulators."

So ordered:

5/2/14

Joseph R. Balash
Commissioner
Department of Natural Resources

Date

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[56] See Energy Information Administration Coal News and Market Data at http://www.eia.gov/coal/news_markets/.

[57] 11 AAC 85.220 states that, in situations where royalty is not a bid variable, it will be between 5 and 12%. DNR also may structure a lease sale to include royalty percentage bids, with a floor of 5%. In either event, the royalty rate would be at least 5%.

[58] And almost double the State's $348,000 share of this budget.